

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

Joseph A Fraizer,)	
Plaintiff,)	
)	Case No. 11-0074-CV-W-FJG
vs.)	
)	
Omni Insurance Company,)	
Defendant.)	
)	
_____)	
)	
Omni Insurance Company,)	
Counterclaim/Interpleader Plaintiff)	
)	
vs.)	
)	
Joseph A. Frazier,)	
Counterclaim/Interpleader Defendant,)	
)	
Freddy Hill, Carmelita Hudson, and)	
Alicia Paige,)	
Interpleader Defendants.)	

ORDER

Before the Court is the parties' joint status report (Doc. No. 45) regarding whether they are prepared for their settlement hearing, previously set for November 3, 2011.

In the Court's previous order (Doc. No. 43), it noted that the purported settlement reached in this case did not include interpleader defendant Hudson, who at the time settlement was reached had not filed an answer and was not represented by counsel. On September 13, 2011, counsel for Hudson entered an appearance. On September 19, 2011, Hudson filed an answer and a crossclaim for damages against defendant Omni. Given that interpleader Hudson had not been included in previous settlement negotiations, the Court continued the settlement hearing from September 20, 2011 to November 3, 2011, in order to give the parties time to review their options and to possibly include Hudson in their negotiations.

On October 27, 2011, the parties filed their status report, indicating that, "There has been some discussion among the parties with regard to [whether Hudson is entitled to recovery from the proceeds], but at this time there is no agreement as to what amount, if any, Hudson would be entitled." Doc. No. 45, ¶9. Nonetheless, plaintiff Frazier, interpleader defendant Paige, and defendant OMNI indicate that they are "prepared for the settlement hearing scheduled for November 3, 2011." Doc. No. 45, ¶¶ 10, 11, and 12. Hudson, on the other hand indicates she "is not of the opinion that this matter is ready for the settlement hearing on November 3, 2011, as it is not agreed to by all parties." Doc. No. 45, ¶ 13.

The Court agrees with interpleader defendant Hudson. This Court will not approve a settlement agreement disbursing all interpled funds from the Court's registry without agreement from all non-defaulting parties. This includes interpleader defendant Hudson. If settlement cannot be reached with interpleader defendant Hudson, this case must proceed on the merits.

Therefore, for the foregoing reasons, the settlement hearing set for November 3, 2011 is **CANCELLED**. The parties are **ORDERED** to file a joint status report on or before **November 23, 2011**, indicating the status of settlement negotiations with interpleader defendant Hudson. If the parties are unable to reach a settlement on or before November 23, 2011, the Court further **ORDERS** the parties to furnish with their joint status report a joint proposed discovery plan and scheduling order, as the current Scheduling and Trial Order (Doc. No. 24) contains many deadlines that have passed since the purported settlement was reached.

IT IS SO ORDERED.

/S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge

Dated: October 28, 2011
Kansas City, Missouri